

217261

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE

OF COUNSEL
DONALD G. AVERY

SLOVER & LOFTUS
ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003



August 11, 2006

WRITER'S E-MAIL:
cam@sloverandloftus.com

VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, DC 20423-0001

ENTERED
Office of Proceedings
AUG 11 2006
U.S. District Court
Public Record

Re: Finance Docket No. 33388 (Sub-No. 100)
Petition for Clarification Or in the Alternative For
Supplemental Order-North Jersey Shared Assets Area

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are the original and ten copies of petitioners Bridgewater Resources, Inc.'s and ECDC Environmental, L.L.C.'s unopposed Motion to Modify Procedural Schedule in the above-referenced proceeding. The motion essentially seeks a two-week postponement of the due dates set forth in the Board's decision served July 31, 2006, to enable the orderly completion of discovery (including a possible motion to be compel).

Because the present due date for motions to compel (August 21, 2006) is only ten days away, petitioners respectfully request expedited consideration of the enclosed motion.

Please date stamp the extra copy of this cover letter and the enclosed pleading and return it to our messenger. Thank you for your attention to this matter.

Respectfully submitted,

Christopher A. Mills

CAM:jml
Enclosures
cc: Counsel for NS, CSX and Conrail

CSX CORPORATION AND CSX)	
TRANSPORTATION, INC., NORFOLK)	
SOUTHERN CORPORATION AND)	
NORFOLK SOUTHERN RAILWAY)	Finance Docket No. 33388
COMPANY – CONTROL AND)	(Sub-No. 100)
OPERATING LEASES/AGREEMENTS –)	
CONRAIL INC. AND CONSOLIDATED)	
RAIL CORPORATION)	(Petition for Supplemental Order)

MOTION TO MODIFY PROCEDURAL SCHEDULE

Petitioners Bridgewater Resources, Inc. (“BRI”) and ECDC Environmental, L.L.C. (“ECDC”) hereby move the Board to modify the procedural schedule for this proceeding, as established in the Board’s Decision served July 31, 2006 (“July 31 Decision”). The proposed modifications, which are necessary to accommodate discovery and the possible need for a motion to compel discovery responses, are as follows:

	<u>Present Schedule</u>	<u>Proposed Schedule</u>
Discovery responses due	August 21, 2006	August 28, 2006
Due date for motions to compel	August 21, 2006	September 5, 2006
Discovery completion date	August 30, 2006	September 15, 2006
Petitioners' supplement to petition due	September 29, 2006	October 13, 2006
Comments of interested persons due	October 19, 2006	November 2, 2006
Petitioners' reply due	October 30, 2006	November 14, 2006

Counsel for the Conrail control applicants (NS, CSX and Conrail) have authorized BRI/ECDC to advise the Board that they have no objection to these proposed schedule modifications.

Pursuant to the August 31 Decision, BRI/ECDC served discovery requests (interrogatories and document production requests) on the Conrail control applicants on August 4, 2006. This was the earliest date when this could be accomplished given that Petitioners' undersigned counsel was out of the country on vacation when the July 31 Decision was issued, and did not return to the office until the morning of August 4th. Responses to the discovery requests are presently due in 15 days (the minimum period permitted by the Board's rules). However, since the 15th day after service of the requests (August 19, 2006) is a Saturday, the responses are actually due on Monday, August 21. August 21 is also the due date for motions to compel discovery responses (if any), and the Board has allowed an additional nine days to complete discovery.¹

It would be counter-productive to require motions to compel to be filed on the same date the discovery responses are due, as there would be no opportunity for meaningful evaluation of the responses or for negotiations between the parties in an effort to resolve a discovery dispute short of bringing it to the Board for resolution. Moreover, discussions with counsel for the Conrail control applicants indicate that they need some additional time over and above 15 days to prepare responses to interrogatories and to produce requested documents.

¹ BRI/ECDC interpret the Board's imposition of a discovery completion date as meaning that no additional discovery requests may be served after that date, and that parties should proceed expeditiously to complete their responses to BRI/ECDC's August 4, 2006 discovery requests as necessary to comply with a Board order on a motion to compel (if such a motion is filed).

Under the circumstances, the proposed modifications to the schedule are reasonable and necessary to resolve any discovery disputes that may occur and to permit the orderly development of the record. The modifications are minor, as the net result will be to extend the last evidentiary due date by only 15 days.

Expedited Action on this motion is requested given the short time (ten days) until motions to compel are due under the July 31 Decision.

BRIDGEWATER RESOURCES, INC.
and ECDC ENVIRONMENTAL, L.L.C.

OF COUNSEL:

Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Dated: August 11, 2006

By: Christopher A. Mills
Stephanie M. Pisanelli
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036



Their Attorneys

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of August, 2006, caused copies of the foregoing Motion to be served by hand and e-mail upon Washington counsel for Applicants, and by e-mail upon all other known parties of record, as follows:

Richard A. Allen, Esq.
Shannon M. Moyer, Esq.
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W., Suite 600
Washington, D.C. 20006-3939

John V. Edwards, Esq.
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-9241

Peter J. Schudtz, Esq.
Paul R. Hitchcock, Esq.
CSX Corporation
500 Water Street
Jacksonville, FL 32202
Peter J. Shudtz

Jonathan M. Broder, Esq.,
Senior Vice President-Law
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

John K. Enright, Esq.
Associate general Counsel
Consolidated Rail Corporation
1000 Howard Boulevard
Mt. Laurel, NJ 08504

Eric Strohmeier
CNJ Rail Corporation
838 Carnoustie Drive
Bridgewater, NJ 09907



Christopher A. Mills